Exhibit 1

SENT 2/3/11

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ARCHIE COMIC PUBLICATIONS, INC., Plaintiff, vs. KENNETH W. PENDERS, II, *a/k/a* KEN PENDERS Defendant.	Case No.: 10-CV-8858 (RMB) Judge: Hon. Richard M. Berman **AFFIDAVIT OF MIKE PELLERITO IN SUPPORT OF ARCHIE COMIC PUBLICATIONS' MOTION FOR SUMMARY JUDGMENT**

I, Mike Pellerito, declare under the pains and penalties of perjury under the laws of the United States of America and the State of New York that the following is true and correct. The following facts are based on my personal knowledge. If called to testify regarding these facts, I could and would so competently testify:

1. I am President of Archie Comic Publications, Inc. ("ACP"), a publishing corporation located in Mamaroneck, NY. I have worked at ACP since 2000.

2. I joined ACP in 2000 as a Production Artist. I eventually was promoted to Assistant Editor, Editor, Managing Editor, Vice President and Managing Editor, and then became President in 2010.

3. I have personal knowledge of Ken Penders' work and relationship with ACP.

4. During my tenure with ACP, it has been ACP's policy to always have independent contractors sign written agreements in order to receive payment for their contributions.

5. I have personal knowledge and oversight of ACP's filing systems, and the fully executed Revised Newsstand Comic Independent Contractor's Agreement ("Contractor's Agreement) and Licensed Comic Books Independent Contractor's Agreement ("Licensed Comic Books IC Agreement") signed by Ed Spallone on behalf of ACP and Penders Penders (collectively "ACP-Penders Agreements") were maintained by ACP in the ordinary course of business in our filing systems, and produced as they were kept by ACP. ACP maintains fully executed agreements with more than 250 independent contractors. I previously gave a declaration in this case and wish the court to consider this; there I provide the names of various contractors with whom ACP maintains written agreements. See D.E. 17.

6. I affirm that the ACP-Penders Agreements attached as Exhibit B and C to the Spallone Affidavit are true and accurate copies of the agreements as they have been kept in ACP's files, in the place where they should have been found, in files with various other agreements with other independent contractors, such as those agreements which are attached as Exhibit A to the Spallone Affidavit. I affirm that ACP has such agreements with more than 250 contractors over the years, and the agreements attached as Exhibit A to the Spallone Affidavit are true and accurate copies of such agreements and a representative sampling.

7. Victor Gorelick, now Co-President and Editor-in-Chief of ACP, was also responsible for keeping the files which included the ACP-Penders Agreements, and he was personally familiar with Penders and his submissions of work product to ACP.

8. In order for an independent contractor to be paid, it is ACP's policy to require that an Independent Contractor's Agreement be executed. A review of ACP's files reveals, literally, hundreds of executed independent contractor's agreements, including those for contributors to ACP's licensed properties, dating back to the 1980's.

9. Certain tasks are necessary to produce each Sonic comic book including creation of storylines, scripts, penciling, inking, and coloring each story. When I was editor of the Sonic comic book series, from 2003 through 2010 I determined which independent will work on each task associated with production of the comic book.

10. Penders was asked by ACP to perform some of these various tasks at different times for different stories, as were other independents. The particular tasks ACP asked Penders to perform depended on what ACP needed. Penders sometimes was asked to perform multiple tasks on certain stories but his level of involvement in the creation of each Sonic comic book was always directed and controlled by ACP.

11. For selected issues of the Sonic comic book series Penders was asked to create storylines. I instructed Penders about storylines, character usage, basic plot elements and the parameters he was to work within in producing works for ACP. Penders would produce a script within these parameters and submit the work to ACP. The editorial staff, myself included, would review the work and make additional comments and instructions as necessary. If additional changes were needed Penders would revise and resubmit the work in accordance to instructions. Once a finished script was approved by ACP and SEGA, the storyline and script would be sent to Penders or another independent contractor to draw the comic in pencil, then be lettered and finally inked to create the black and white artwork. Once the B&W artwork was finished, the work was sent to SEGA for comments and instructions. If SEGA asked for additional changes to be made, they would be done in-house and the work would then go to another independent contractor to add color. The color art was again reviewed internally then submitted to SEGA for approval. Requested changes would be done in-house and once approved by SEGA files would be sent to print.

12. To the best of my knowledge, Penders was paid for every contribution he made to the Sonic comic books that was approved and published. Penders certainly never, not once in all the years I've worked with him, ever complained that he was not paid for any work which ACP published. If he had, I would have made sure he was paid. But, he never complained – because he was paid everything he was owed.

13. In my tenure at ACP, Penders never informed me that he believed he owned or retained rights in any of the works he submitted on the Sonic comic book series.

14. To get paid for their contributions, independent contractors in most cases would send in invoices with each assignment as it was sent to the office. Some independent contractors, mostly writers, would sign and return blank invoices provided by ACP to hold until work was sent in. ACP would fill out one of the signed invoices for each contribution the independent contractor was to be paid for as the assignment was submitted. Penders was sent blank invoices in this same manner and returned them signed to ACP. Penders never expressed any issue with this method of payment to my knowledge.

15. In 2010, under my direction, Victor Gorelick and I searched ACP's records for the original signature ACP-Penders Agreements. I helped Victor look for the agreements but we could not find them.

16. I remember Victor finding duplicate copies of the ACP-Penders Agreements in a file containing similar agreements with other independent contractors. The documents Victor found were signed by Ed Spallone on behalf of ACP and counter-signed by Penders. Victor showed me the agreements when he located them in the file containing voluminous similar business records.

17. I affirm that the ACP-Penders Agreements attached as Exhibit B and C to the Spallone Affidavit are true and accurate copies of the agreements that Victor located in ACP's files, in the place where they should have been found, in files with various other agreements with other independent contractors, such as those agreements which are attached as Exhibit A to the Spallone Affidavit. I affirm that the agreements attached to Spallone Affidavit as Exhbiit A are true and accurate copies of the agreements as they exist in ACP's files at its headquarters in Mamaroneck, NY.

18. On July 29, 2011 Victor forwarded me email correspondence he had with Penders in December 2008 and January 2009. In the emails, Penders requested "the work-for-hire agreements I [Penders] signed with ACP." I confirm that the emails attached as Exhibit A to Victor Gorelick's declaration were forwarded to me by Victor on July 29, 2011 and are true and exact copies of the records from ACP's network servers kept in the ordinary course of business. These are business records of ACP.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed February 3, 2012 at Mamaroneck, New York.

[signature]

Mike Pellerito

NOTARY BELOW:

DEBORAH J. MONSERRATE
NOTARY PUBLIC-STATE OF NEW YORK
No. 01MO6057563
Qualified in Putnam County
My Commission Expires 4-23-15

[signature]